



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
PROCUREMENT POLICY

MAR 29 1978

POLICY LETTER NO. 78-2

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Preventing "Wage Busting" for Professionals:
Procedures for Evaluating Contractor Proposals
for Service Contracts

The Federal Government has for many years contracted with American industry for a variety of services in support of Federal programs. In most cases the contracts have been entered into as a result of competitive procurement procedures and they normally are subject to periodic recompetition.

Unwarranted reductions in salaries and fringe benefits can occur during competition for Government service contracts. Since the costs of wages and fringe benefits constitute the largest cost element in a service contract, competitors often have driven down wage rates to unrealistically low levels, even though the employees that will perform the work under the new contract are the same performing the work under the predecessor contract.

The Service Contract Act of 1965 (P.L. 89-286), as amended, was enacted to prevent such "wage busting" practices with respect to blue collar and some white collar workers. The Department of Labor sets and maintains wage determinations for these service contract employees. Federal laws setting minimum standards for wages, working conditions, or other labor standards do not, however, apply to professional employees. In addition, professional employees traditionally have not been represented by union collective bargaining agreements.

The Government shares a deep concern for inequities such as "wage busting" practices generated in our procurement system. The Government should not inadvertently contribute to unwarranted, severe, and abrupt reductions in compensation provided to Federal service contract employees. This has happened to some professional employees, especially in areas of concentrated Federal support such as Cape Canaveral, Florida; Houston, Texas; Huntsville, Alabama; and several

areas of California. In these and other areas, experience has in some cases been bad; the potential for further problems is worse.

The Federal Government cannot allow the protracted labor instability, loss of morale, and undermined mission performance that comes from the fact or fear of "wage busting." The human impact on longstanding careers, family dislocations, and personal economic distress makes the problem even more compelling, even if it could be confined to isolated locales.

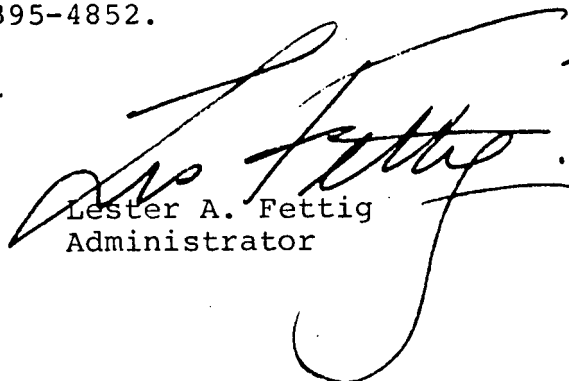
Therefore, pursuant to the authority vested in me under Public Law 93-400, it is the declared policy of the Federal Government that all service employees, including professional employees, employed by contractors providing services to the U.S. Government, be fairly and properly compensated. Federal procurement procedures shall be developed to assure equitable compensation for all such employees. This policy clearly recognizes the fact that there is a predictable and essential link between personnel compensation and work performance. Therefore, evaluation of bids and proposals for service contract work shall take into account the realism of the offeror's proposed personnel compensation plan to assure that the offeror has a proper understanding of the resources required to perform high quality work on an uninterrupted basis.

Therefore, all future solicitations shall include the language contained in the attachment to this Policy Letter whenever professional employees are expected to be needed to perform the services. If the procuring agency feels that a particular procurement covered by this policy statement does not warrant the use of such language in the solicitation, the agency shall request approval from the Administrator, Office of Federal Procurement Policy (OFPP) before omitting the criteria from any solicitation.

Implementation of the policy to be effective April 1, 1978, shall be made through regulatory guidance to be issued under both the Defense Acquisition Regulation and Federal Procurement Regulations.

This Office has a statutory responsibility to promote uniformity in procurement regulations to the extent it is feasible to do so. Accordingly, each agency is required, not later than 6 months from the date of this Policy Letter, to submit

a report to this Office for our review and assessment as to the actions which have been taken to implement this important policy. Following this review and assessment, we will determine whether additional guidance from this Office is required. Any questions related to this policy may be directed to Mr. Joseph F. Zimmer at 395-4852.



Lester A. Fettig
Administrator

Attachment

Attachment

INSTRUCTIONS TO BIDDERS

Total compensation (salary and fringe benefits) of professional employees under service contracts may in some cases be lowered by recompetition of such contracts. Such lowering of compensation can be detrimental in obtaining the necessary quality of professional services needed for adequate performance of service contracts. It is therefore in the best interest of the Government that professional employees be properly and fairly compensated in such contracts. The following evaluation factors and criteria, therefore, will be used in assessing the total compensation package submitted by each bidder.

EVALUATION FACTORS AND CRITERIA

Understanding the Requirement

In establishing compensation levels for employees not otherwise covered by the Service Contract Act, the total compensation (both salaries and fringe benefits) proposed, shall reflect a clear understanding of the requirements of the work to be accomplished and the suitability of the proposed compensation structure to obtain and retain qualified personnel to meet mission objectives. The salary rates or ranges must recognize the distinct differences in professional skills and the complexity of varied disciplines as well as job difficulty. They shall reflect the professional contributions,

abilities, professional status, responsibility, and value of the education and experience of such professional employees.

Cost Factor

Proposals which are unrealistically low or do not reflect a reasonable relationship of compensation to the job categories so as to impair the contractor's ability to recruit and retain competent personnel may be deemed reflective of failure to comprehend the complexity of the contract requirement. This agency is concerned with the quality and stability of the work force to be employed on this contract. The compensation data required will be used in evaluation of your understanding of the contract requirement. An assessment of the potential for adverse effect upon performance and maintenance of harmonious labor relations with employees resulting from an unrealistic low compensation structure will also be made.

Evaluation of Bids

This agency will evaluate the total compensation (both salaries and fringe benefits) to be paid to professional employees to assure that such compensation reflects an understanding of the requirements to be performed as outlined above. It will include an assessment of the bidder's ability to provide uninterrupted work of high quality. The total compensation proposed will be evaluated in terms of enhancing recruitment of personnel and its realism and consistency with a total plan for compensation (both salary and fringe benefits).

Bids offering total compensation levels less than currently being paid by the predecessor contractor for the same work will be evaluated, in addition to the above, on the basis of maintaining program continuity and availability of required competent professional personnel. Bidders are cautioned that instances of lowered compensation for essentially the same work may be an indication of lack of sound management.

Negotiations

During written and oral discussions, if provided for, bidders will be afforded an opportunity to clarify and support their total compensation plans. Supporting information will include data such as recognized national and regional compensation surveys and studies of professional public and private organizations used in establishing the total compensation structure. Failure to correct compensation weaknesses disclosed by agency evaluation may be cause for rejection of the bid.

The Contract

The bidder's proposed total compensation plan will be incorporated into any contract resulting from this solicitation. This will serve to lend authenticity to the plan proposed and reflect a commitment of the bidder to pay the compensation stated therein.